



**UNITED STATES DEPARTMENT OF COMMERCE  
Patent and Trademark Office**

Address: COMMISSIONER OF PATENTS AND TRADEMARKS  
Washington, D.C. 20231

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
-----------------	-------------	----------------------	---------------------

09/330,963 06/11/99 MCNUTT

R QDS/6

EXAMINER

QM12/0926

MATTHEW T BYRNE  
FISH AND NEAVE  
1251 AVENUE OF THE AMERICAS  
NEW YORK NY 10020-1104

CHERUBIN, Y

ART UNIT

PAPER NUMBER

3713

DATE MAILED:

09/26/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/330,963

Applicant(s)

MCNUTT ET AL.

Examiner

Yveste G. Cherubin

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-9, 11, 12, 15-25, 27, 28, 31 and 32 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9, 11, 12, 15-25, 27, 28, 31 and 32 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 8. 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. This office action is in response to the amendment received on July 13, 2001 in which claims 10, 13-14, 26, 29-30 are canceled, claims 1,11, 12, 15-17, 27-28, 31-32 are amended and 1-9, 11-12, 15-25, 27-28, 31-32 are pending.

#### *Drawings*

2. Photographs and color drawings are acceptable only for examination purposes unless a petition filed under 37 CFR 1.84(a)(2) or (b)(2) is granted permitting their use as formal drawings. In the event applicant wishes to use the drawings currently on file as formal drawings, a petition must be filed for acceptance of the photographs or color drawings as formal drawings. Any such petition must be accompanied by the appropriate fee as set forth in 37 CFR 1.17(i), three sets of drawings or photographs, as appropriate, and an amendment to the first paragraph of the brief description of the drawings section of the specification which states:

The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee.

Color photographs will be accepted if the conditions for accepting color drawings have been satisfied.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Art Unit: 3713

Claims 1-9, 11-12, 15-25, 27-28, 31-32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brenner et al. (US Patent 5,830,068) in view of Wendkos (US Patent No. 6,278,980).

As per claims 1, 7-9, 11-12, 15, 17, 23-25, 27-31, Brenner et al. discloses a system and method of use for interactive wagering, 1:6-8 comprising a data management facility (380) that stores data relating to wagering account information, 19:27-34. However, Brenner does not disclose the use of a plurality of types of user interface systems to receive account information. Wendkos teaches an interactive system wherein users can register and/or redeem award credits. Wendkos' system is configured to allow users to access account information using different types of user interfaces. In a telephone environment, the interactive platform is connected to a toll free telephone number where a participant or user's call is handled by a computer controlled voice response unit. In a computer network environment, a computer user connects to the interactive platform over a network wherein the network can be any type of network, such as a local area network, a wide area network, a public telecommunications such as the Internet, an internal company network such as an Intranet, a CATV network, or a telephone network. In general, the interactive platform of Wendkos is arranged to interact with program participants or users to manage an awards program, or wagering program in our case. Wendkos' system comprises a plurality of databases wherein one of these databases includes information about participants in the program. Thus, Wendkos' invention is directed to an interactive program wherein a computer program contains instructions for receiving a communication from participants, retrieving

Art Unit: 3713

information about participants from a database based on information contained in the communication, and controlling interaction with participants based on information about participants, retrieved from the database. It would have been obvious to one of ordinary skill in the art at the time of the invention to include the plurality of communication interfaces as thought by Wendkos into the Brenner type system in order to facilitate the users' interaction with the program. Regarding claims 2-5, 18-19, 21, 32, Wendkos further teaches a system wherein the television is a cable system, 2:24-32, 12:22-28. As per claims 6, 16, 20, 22, one of ordinary skill in the art would have been motivated to include a satellite television system into the Brenner type system in order to speed up the transmission of data.

4. Other related art references are cited to teach system wherein users or players can access the program via telephone, computer or voice command.

a. US Patent No. 6,280,325 to Fisk is cited to teach a computer network management of wide area multiplayer gaming system that permits players' interaction through the use of a plurality of communications interfaces such as computer network, the Internet, ATM or automated teller machines, public telephone network.

b. US Patent No. 6,253, 062 to Leyendecker is cited to teach a voice information service networking system wherein users can use various interfaces such as telephone, computer, voice pager to access news, stock quotes, lottery results, etc.. .....

Art Unit: 3713

***Response to Arguments***

5. Applicant's arguments with respect to claims 1-9, 11-12, 15-25, 27-28, 31-32 have been fully considered. Another non final rejection is being submitted. See above.

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yveste G. Cherubin whose telephone number is (703) 306-3027. The examiner can normally be reached on 9:30 - 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Valencia Martin-Wallace can be reached on (703) 308-4119. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-3579 for regular communications and (703) 305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1148.

September 20, 2001

ygc



JESSICA J. HARRISON  
PRIMARY EXAMINER

**Attachment for PTO-948 (Rev. 03/01, or earlier)**  
**6/18/01**

**The below text replaces the pre-printed text under the heading, "Information on How to Effect Drawing Changes," on the back of the PTO-948 (Rev. 03/01, or earlier) form.**

**INFORMATION ON HOW TO EFFECT DRAWING CHANGES**

**1. Correction of Informalities -- 37 CFR 1.85**

New corrected drawings must be filed with the changes incorporated therein. Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin. If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings **MUST** be filed within the **THREE MONTH** shortened statutory period set for reply in the Notice of Allowability. Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136(a) or (b) for filing the corrected drawings after the mailing of a Notice of Allowability. The drawings should be filed as a separate paper with a transmittal letter addressed to the Official Draftsperson.

**2. Corrections other than Informalities Noted by Draftsperson on form PTO-948.**

All changes to the drawings, other than informalities noted by the Draftsperson, **MUST** be made in the same manner as above except that, normally, a highlighted (preferably red ink) sketch of the changes to be incorporated into the new drawings **MUST** be approved by the examiner before the application will be allowed. No changes will be permitted to be made, other than correction of informalities, unless the examiner has approved the proposed changes.

**Timing of Corrections**

Applicant is required to submit the drawing corrections within the time period set in the attached Office communication. See 37 CFR 1.85(a).

Failure to take corrective action within the set period will result in **ABANDONMENT** of the application.